

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LAURA PREFONTAINE, Individually and on	:	Civil Action No. 1:11-cv-04068-RJS
Behalf of All Others Similarly Situated,	:	
	:	<u>CLASS ACTION</u>
Plaintiff,	:	
	:	
vs.	:	
	:	
RESEARCH IN MOTION LIMITED, et al.,	:	
	:	
Defendants.	:	
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NANCY A. DEMARKIS, Individually and on	:	Civil Action No. 1:11-cv-04560-RJS
Behalf of All Others Similarly Situated,	:	
	:	<u>CLASS ACTION</u>
Plaintiff,	:	
	:	
vs.	:	
	:	
RESEARCH IN MOTION LIMITED, et al.,	:	
	:	
Defendants.	:	
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[Caption continued on following page.]

DISTRICT NO. 9, I.A. OF M. & A.W. PENSION TRUST'S NOTICE OF RECENT
AUTHORITY REGARDING APPOINTMENT OF LEAD PLAINTIFF

		X
MICHAEL MCNEAL and KENNETH GOLD,	:	Civil Action No. 1:11-cv-05472
Individually and on Behalf of All Others	:	
Similarly Situated,	:	<u>CLASS ACTION</u>
	:	
Plaintiffs,	:	
	:	
vs.	:	
	:	
RESEARCH IN MOTION LIMITED, et al.,	:	
	:	
Defendants.	:	
	:	
	X	

Lead Plaintiff movant District No. 9, I.A. of M. & A.W. Pension Trust (“District 9”) hereby submits for the Court’s consideration the recent lead plaintiff opinion in *Teran v. Subaye, Inc.*, No. 11 Civ. 2614 (NRB), 2011 U.S. Dist. LEXIS 105774 (S.D.N.Y. Sept. 16, 2011) (Buchwald, J.) (attached hereto as Exhibit A).

In *Subaye*, Judge Buchwald assessed the application of a movant group for appointment as lead plaintiff. The court required a proposed lead plaintiff group to “proffer an evidentiary showing that unrelated members of a group will be able to function cohesively and [] effectively manage the litigation apart from their lawyers before its members will be designated as presumptive lead plaintiffs.” *Id.* at *7-*8 (quoting *Varghese v. China Shenghuo Pharm. Holdings, Inc.*, 589 F. Supp. 2d 388, 392 (S.D.N.Y. 2008)). The court concluded that the group’s members had been “cobbled together by counsel for purposes of making this motion and becoming the lead plaintiff” even though the group’s members not only possessed the largest financial interest but also: (1) submitted declarations; (2) communicated with one another concerning the litigation; and (3) confirmed they understood their responsibilities as lead plaintiff. *Id.* at *10-*13.

The *Subaye* opinion is helpful to the Court’s analysis here as the members of the McNeal/Gold Group have not met this threshold requirement as they did not even attempt to timely offer evidence of their adequacy, let alone provide adequate evidence thereof. *See id.* at *14.

DATED: September 26, 2011

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[Proposed] Lead Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on September 26, 2011, I authorized the electronic filing of the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I caused to be mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the attached Manual Notice List.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 26, 2011.

s/ DAVID A. ROSENFELD
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Manual Notice List

The following is the list of attorneys who are **not** on the list to receive e-mail notices for this case (who therefore require manual noticing). You may wish to use your mouse to select and copy this list into your word processing program in order to create notices or labels for these recipients.

- (No manual recipients)